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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------------|---------------------|------------------|
| 10/582,005  | 02/02/2007  | Vicente Gomez Amor          | 076283.0011         | 1789             |
| 23630 7590 11/02/2009<br>MCDERMOTT WILL & EMERY LLP<br>28 STATE STREET<br>BOSTON, MA 02109-1775 |             |                             |                     |                  |
| EXAMINER<br>MATNEY, BROOKE MARIE  |             |                             |                     |                  |
| ART UNIT<br>3763  |             | PAPER NUMBER                |                     |                  |
| NOTIFICATION DATE<br>11/02/2009   |             | DELIVERY MODE<br>ELECTRONIC |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

BostonIPDocket@mwe.com

### Office Action Summary

**Application No.**

10/582,005

**Applicant(s)**

GOMEZ AMOR, VICENTE

**Examiner**

Brooke M. Matney

**Art Unit**

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/CDC)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This office action is responsive to the amendment filed on 7/15/2009. As directed by the amendment: claims 1-3 have been amended. Thus, claims 1-3 are presently pending in the application. The previous objections under 35 USC 112 to the specification and the previous objections to the drawings are withdrawn in light of Applicant's amendments to the specification. The previous 35 USC 112 rejections of claims 1-3 are withdrawn in light of Applicant's amendments to claim 1-3.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by *Fink* [US Patent No. 4,219,021].

As to claim 1, *Fink* discloses a three-way stopcock for medical use which comprises a primary arm (outlet connection tube 30, Fig. 1) and two secondary arms (two inlet connection tubes 26 and 28, Fig. 1) meeting at a body (12, Fig. 1), wherein the primary and secondary arms are configured and arranged to receive an intravenous catheter and two supply catheters, respectively; and a plug (valve core 14, Fig. 7) disposed within the body, wherein the plug is configured and arranged for being externally activated by a handle (16, Fig. 1);

wherein the principle arm and the secondary arms can be brought to selectively communicate with each other or be disconnected (col. 4, ll. 3-6), and wherein the two secondary arms protrude diametrically opposite from the body, wherein the tangent of both arms nearest the body is perpendicular to the principal arm (col. 3, ll. 57-60), wherein each secondary arm has (i) a proximal segment adjacent to the body that is curved and flexible (col. 3, ll. 44-50), and (ii) a distal segment, wherein the two distal segments can be made essentially parallel and the two proximal segments can be oriented in a direction perpendicular to the principal arm (Fig. 14). *Fink* teaches that the primary arm and two secondary arms are each connected to a flexible length of tubing (inlet tube 34, inlet tube 38, and outlet tube 42, Fig. 1). *Fink* also discloses that the flexible length of tubing can therefore be bent in a way so that the inlet tubes curve away from the body and then become aligned parallel to each other. Also, *Fink* does not disclose any differences between the primary arm and the secondary arms' connection to the body. Therefore, the primary arm and the secondary arms could be oriented with the principal channel between the secondary arms.

As to claim 2, *Fink* further discloses wherein the three-way stopcock is characterized in that the secondary arms are made of medical grade polymer (col. 1, ll. 19-23). *Fink* teaches that the flexible tubes are plastic, which is a polymer. *Fink* also teaches that the flexible tubes will be used with the stopcock for intravenous administration of different medications (abstract), thereby showing the plastic tubing to be of medical grade.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Fink* in view of *Lynn* [US Patent No. 7,033,339 B1].

As to claim 3, *Fink* discloses a three-way stopcock having all claimed elements except for wherein the plug presents in its interior inner channels an interior configuration in the form of inverted "V", wherein the branches are slightly arched.

*Lynn* discloses wherein the plug presents in its interior inner channels an interior configuration in the form of inverted "V", wherein the branches are slightly arched (Fig. 67, central rotating member 1208).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify *Fink*'s valve core such that it has an interior configuration in the form of an inverted "V" wherein the branches are slightly arched, as taught by *Lynn*, in order to improve fluid flow through the stopcock.

***Response to Arguments***

6. Applicant's arguments filed 7/15/2009 have been fully considered but they are not persuasive.

7. Firstly, Examiner acknowledges that the stop-cock itself is not made of flexible material, however claim 1 does not require that the stop-cock itself be made of flexible material. Claim 1 requires that "each secondary arm has a proximal segment adjacent to the body that is curved and flexible". Also, *Fink* does not disclose any differences between the primary arm and the secondary arms' connection to the body. Therefore, the primary arm and the secondary arms could be oriented with the principal channel between the secondary arms.
8. Secondly, Applicant argues that the 35 USC 103 rejection (*Fink* in view of *Lynn*) is improper because *Lynn* is not understood as curing the previously-noted deficiencies of *Fink* relative to amended claim 1. However, since Examiner believes that the rejection of claim 1 under 35 USC 102 is still proper, Examiner also believes the rejection under 35 USC 103 is still proper.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brooke M. Matney whose telephone number is (571)270-1457. The examiner can normally be reached on Monday-Thursday 9AM-7PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571)272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brooke M Matney/  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art  
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